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AUG 31 2007

Applicant: Picozza et al.
Application No.: 10/699,378
Examiner: Y. Abbott

Remarks

Claims 1, 4-7, 10-15, 19, and 20 are pending in the application and are presented for the Examiner's review and consideration. Applicants believe the accompanying remarks herein serve to clarify the present invention and are independent of patentability. No new matter has been addcd.

35 U.S.C. §103 Rejections-Pangle & Tenzer

Claims 1, 4-7, 10-15, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,364,142 to Pangle ("Pangle") in view of U.S. Patent No. 5,980,541 to Tenzer ("Tenzer"). For the reasons set forth below, Applicants respectfully submit that the rejected claims are patentable over Pangle in view of Tenzer.

Pangle relates to an improved body squeegee which is particularly suitable for removing excess water from a user's body ancillary to towel drying or the like. (Col. 1, Ins. 6-9). The body squeegee 10 includes an elongated handle portion 11 and an elongated generally elliptic head portion 12 which carries about its periphery a resilient and flexible blade member 13. (Col. 2, Ins. 20-23). The handle and head portion may be unitarily formed of any suitable material such as wood, plastic or other like rigid material. (Col. 1, Ins. 23-25).

The flexible and resilient blade member 13, as best shown in FIG. 2 of Pangle, is fixedly held in a recess 16 formed about the periphery of the head portion 12 so as to form a substantially flat surface 17 relative to the handle 11 and head 12. (Col. 2, Ins. 35-38). In keeping with an important aspect of the invention, the squeegee blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge 19 which facilitates removal of water from wet skin by the flexible and resilient blade. (Col. 2, Ins. 42-46).

Also, the central portion of the head 12 is preferably a recessed spoon shape 18 which aids in maneuvering the squeegee head over the contoured parts of the body. (Col. 2, Ins. 38-41).

As such, Pangle discloses a body squeegee having a rigid handle and elongated head portion. The elongated head portion includes a recess about its periphery, into which a single flexible and resilient blade member is positioned. In an important aspect of Pangle, the blade member is aligned about an elongated head such that the sharp edges of the blade member project outwardly from the head at an acute angle. In this manner, the blade member and the elongated

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head form a substantially flat surface relative to the handle and elongated head (see Figures 2 and 4).

However, Pangle fails to disclose that the body squeegee includes a core having an upper surface and a lower surface and being made of a first resilient material, where the core defines an elongated longitudinally curved scraper blade having a scraper surface shaped to remove sweat and debris from an animal. Pangle only discloses that the handle and head portions of the squeegee are made of a rigid material and are planar, i.e., flat (see Figures 2 and 4).

Pangle further fails to disclose a sheath made of a second resilient material, the sheath provided on and completely enveloping at least a portion of said core between said blade and said handle, and said sheath provided along a length of said scraper blade so as to define a parallel pair of sharp V-shaped scraper blade edges adapted to scrape sweat from an animal, said blade edges depending substantially vertically from said lower surface of said core. Pangle only discloses a single flexible and resilient blade member positioned about the periphery of the head portion forming a substantially flat surface relative to the handle and head, where the squeegee blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge.

The Examiner stated that Pangle, however, does not disclose that a V-shaped scraper blade edges depend vertically from the lower surface of the core, but that Tenzer teaches a scraping device which has a downwardly depending blade edge (12c).

Tenzer relates to devices for scraping or cleaning the tongue in combination with a toothbrush. (Col. 1, Ins. 10-11). The scraping of the tongue removes particles and residue that cause bad breath and promote tooth decay. (Col. 3, Ins. 25-26).

Referring to FIG. 1 of Tenzer, there is provided an elongate handle 1 having a bristle end 2 and a scraper end 3. (Col. 4, Ins. 8-9). Provided in Tenzer is an arcuate blade member 5 disposed and attached to the scraper end of the handle by support means 6. (Col. 4, Ins. 11-13). The arcuate member has a concave 7 and a convex 8 surface and is supported by the support means such that the concave surface faces the scraper end of the elongate handle. (Col. 4, Ins. 14-17). The support means and arcuate blade member together define an aperture 9 between the arcuate blade member and the scraper end of the toothbrush handle. (Col. 4, Ins. 17-19).

Referring to FIG. 3 of Tenzer, it can be seen that the arcuate blade member, having a convex 8

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and concave 7 surface, will preferably have at least one, and preferably two, blade edges 11 disposed at the junctures of said concave and convex surfaces. (Col. 4, Ins. 26-30).

As such, Tenzer discloses a tooth brush that includes a tongue scraper. The tongue scraper includes an arcuate section extending from an end of the tooth brush, where the arcuate section includes a convex and concave surface, the edge of which forms a blade. The blade is used to scrape the tongue of a user to remove particles and residue that cause bad breath and promote tooth decay.

However, Tenzer fails to disclose a parallel pair of sharp V-shaped scraper blade edges depending substantially vertically from said lower surface. The blade edges of Tenzer are formed at the intersection of the convex and concave surfaces of the arcuate section, and do not extend from a surface of the arcuate section. Tenzer fails to disclose a sheath or flexible material positioned about the arcuate section to form a blade.

Initially, Applicants submit that Tenzer is not analogous prior art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Octikcr, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

In the present invention, the inventors' endeavors are directed to providing a tool for removing sweat from an animal. In contrast, Tenzer is directed towards a tooth brush having a tongue scraper for the removal of particles and residue that cause bad breath and promote tooth decay.

The tooth brush of Tenzer is not reasonably pertinent to the particular problem with which the inventor was concerned, namely, removing sweat from an animal. Additionally, Applicants submit that because of the matter with which Tenzer deals, it would not logically have commanded itself to the inventors' attention in considering their problem.

Accordingly, Applicants submit that Tenzer is not analogous prior art for the purpose of analyzing the obviousness of the subject matter at issue.

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Additionally, Pangle teaches against the combination with Tenzer. Specifically, Pangle recites in keeping with an important aspect of the invention, the squeegee blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge 19 which facilitates removal of water from wet skin by the flexible and resilient blade. (Col. 2, Ins. 42-46). Also, the central portion of the head 12 is preferably a recessed spoon shape 18 which aids in maneuvering the squeegee head over the contoured parts of the body. (Col. 2, Ins. 38-41). As such, V-shaped sharper blade edges depending vertically from the head are expressly taught against.

Furthermore, the proposed modification or combination of Pangle with Tenzer would change the principle of operation of Pangle. Specifically, Pangle discloses a single flexible and resilient blade member positioned about the periphery of the head portion forming a substantially flat surface relative to the handle and head. It is an important aspect of Pangle that the blade member is aligned about the elongated head such that the sharp edges of the blade member project outwardly from the head at an acute angle. The smoothly rounded portions of the blade member adjacent to the head end and near the juncture with the handle portion provide further versatility in reaching different areas of the body while avoiding any pointed areas that could inadvertently injure the user. (Col. 3, Ins 5-6). Thus, a modification of Pangle with Tenzer would change the principal of operation of Pangle, namely, requiring a reconfiguration of the head, a reorientation in the method of use, and the removal of an important aspect of the Pangle device.

Even if Tenzer is included only to demonstrate the teaching of downwardly depending blades, the Examiner has failed to demonstrate how Pangle can be modified in view of Tenzer to form a parallel pair of sharp V-shaped scraper blade edges depending substantially vertically from a lower surface of the elongated head without undue experimentation.

Specifically, the Pangle blade is formed from a flexible and resilient blade member held in a recess formed about the periphery of the head portion so as to form a substantially flat surface relative to the handle and head, where the squeegee blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge. In contrast, the Tenzer blade is formed from an intersection of a convex and concave surface of the arcuate section, namely being formed at the edge on the arcuate section and not on the convex and concave surfaces.

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As such, the blade structure of Pangle and Tenzer are formed from completely different structures and methods, and the combination of Pangle and Tenzer to form the claimed invention would require undue experimentation.

Accordingly, Applicants submit that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to provide the blade edge of Pangle depending downwardly as taught by Tenzer.

Finally, the combination of Pangle and Tenzer fail to teach all the claim limitations. Specifically and as noted above, Pangle only discloses that the handle and head portions of the squeegee are made of a rigid material and are planar, i.e., flat (see Figures 2 and 4), and that a single flexible and resilient blade member positioned about the periphery of the head portion forms a substantially flat surface relative to the handle and head, where the squeegee blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge.

In contrast, Tenzer discloses a scraper blade formed by the intersection of a convex and concave surface of the arcuate section, namely being formed at the edge on the arcuate section and not on the convex and concave surfaces. The arcuate section is disclosed as extending from an end of the handle and being affixed thereto by a support member. Tenzer does not disclose a sheath or flexible material positioned about the arcuate section to form a blade.

As such, the combination of Pangle and Tenzer fails to disclose a core having an upper surface and a lower surface and being made of a first resilient material, said core defining an elongated longitudinally curved scraper blade having a scraper surface shaped to remove sweat and debris from an animal, a blade tip located at a free end portion of said scraper blade, and a handle extending from an opposite end of said scraper blade, said scraper blade comprising a longitudinally extending curved portion extending between said handle and said blade tip.

Furthermore, the combination of Pangle and Tenzer fails to disclose a sheath made of a second resilient material, said sheath provided on and completely enveloping at least a portion of said core between said blade and said handle, and said sheath provided along a length of said scraper blade so as to define a parallel pair of sharp V-shaped scraper blade edges adapted to scrape sweat from an animal, said blade edges depending substantially vertically from said lower surface of said core.

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In light of the foregoing, independent claim 1 is respectfully submitted to be patentable over Pangle in view of Tenzer. As claims 4-7, 10-15, 19, and 20 depend from claim 1, these dependent claims necessarily include all the elements of their respective base claim. Accordingly, Applicants respectfully submit that dependent claims are allowable over Pangle in view of Tenzer at least for the same reasons.

35 U.S.C. §103 Rejections-Pangle & Rosenblood

Claims 1, 4-7, 10-15, 19 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pangle in view of U.S. Patent No. 6,451,038 to Rosenblood et al ("Rosenblood"). For the reasons set forth below, Applicants respectfully submit that the rejected claims are patentable over Pangle in view of Rosenblood.

As previously discussed, Pangle discloses a body squeegee having a rigid handle and elongated head portion. The elongated head portion includes a recess about its periphery, into which a single flexible and resilient blade member is positioned. In an important aspect of Pangle, the blade member is aligned about elongated head such that the sharp edges of the blade member project outwardly from the head at an acute angle. In this manner, the blade member and the elongated head form a substantially flat surface relative to the handle and elongated head (see Figures 2 and 4).

However, Pangle fails to disclose that the body squeegee includes a core having an upper surface and a lower surface and being made of a first resilient material, where the core defines an elongated longitudinally curved scraper blade having a scraper surface shaped to remove sweat and debris from an animal. Pangle only discloses that the handle and head portions of the squeegee are made of a rigid material and are planar, i.e., flat (see Figures 2 and 4).

Pangle further fails to disclose a sheath made of a second resilient material, the sheath provided on and completely enveloping at least a portion of said core between said blade and said handle, and said sheath provided along a length of said scraper blade so as to define a parallel pair of sharp V-shaped scraper blade edges adapted to scrape sweat from an animal, said blade edges depending substantially vertically from said lower surface of said core. Pangle only discloses a single flexible and resilient blade member positioned about the periphery of the head portion forming a substantially flat surface relative to the handle and head, where the squeegee

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blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge.

The Examiner stated that Pangle, however, does not disclose that V-shaped scraper blade edges depend vertically from the lower surface of the core, but that Rosenblood teaches a scraping device which has a downwardly depending blade edge (126B).

Rosenblood relates to a dual action tongue scraper for cleansing food debris, volatile sulfur compounds, dead cells, microflora and other microorganisms from the tongue. (Col. 1, Ins. 11-15).

The tongue scraper 10 includes opposed first and second generally planar end portions 12 and 14, respectively, each terminating distally in a generally elliptical arcuate edge 16 and 18, respectively, and each having therethrough a hole 12H and 14H, respectively. (Col. 5, Ins. 23-26). The tongue scraper 10 further includes a generally planar central portion 30 disposed symmetrically between and smoothly contiguous to the end portion necks 20 and 22. (Col. 5, Ins. 36-39). The central portion 30 is defined longitudinally by a convexly arcuate first edge 32 having a multiplicity of serrations 34 formed thereon, and a generally linear second edge 36 having a multiplicity of serrations 38 thereon. (Col. 5, Ins. 39-43).

With particular reference to FIGS. 13 and 14 of Rosenblood, orientation of the tongue scraper 40 with respect to a tongue 132 is shown for both a soft scrape (FIG. 13) and a hard scrape (FIG. 14). (Col. 7, ln. 66 – col. 8, ln. 2). As can be seen, when the round corner 128B is used to effect a soft scrape, as shown in FIG. 13, then the protrusion 126B does not substantially contact the tongue 132. (Col. 8, Ins. 2-5). A soft scrape may similarly be effected by using the obtuse corner 128A of FIG. 7. (Col. 8, Ins. 5-6).

The tongue scrapers 10 and 40 are fabricated from a resilient material so that if the central portion 30 or 60 is bent into an arc, the scraper immediately will return to its normally planar state once the end portions are released. Preferably, tongue scrapers 10 and 40 are fabricated by the injection molding of polypropylene, as discussed in detail below. (Col. 5, Ins. 61-67).

As such, Rosenblood discloses a tongue scraper including a central portion having a first and a second edge for scraping the tongue. The tongue scraper is made of a resilient material so the central portion can be bent into an arc. An edge of the central portion can include a rounded corner and a protrusion, where the rounded corner is used for a soft scrape of the tongue and the protrusion is used for a hard scrape of the tongue. The edge is integrally formed with the central

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portion.

However, Rosenblood fails to disclose a parallel pair of sharp V-shaped scraper blade edges depending substantially vertically from said lower surface. The protrusion of Rosenblood is formed on the edge of the central portion, and does not extend along a surface of the central portion. Rosenblood fails to disclose a shcath or flexible material positioned about the portion to form a blade.

Initially, Applicants submit that Rosenblood is not analogous prior art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

In the present invention, the inventors' endeavors are directed to providing a tool for removing sweat from an animal. In contrast, Rosenblood is directed towards a tongue scraper for cleansing food debris, volatile sulfur compounds, dead cells, microflora and other microorganisms from the tongue.

The tongue scraper of Rosenblood is not reasonably pertinent to the particular problem with which the inventor was concerned, namely, removing sweat from an animal. Additionally, Applicants submit that because of the matter with which Rosenblood deals, it would not logically have commanded itself to the inventors' attention in considering their problem.

Accordingly, Applicants submit that Rosenblood is not analogous prior art for the purpose of analyzing the obviousness of the subject matter at issue.

Additionally, Pangle teaches against the combination with Rosenblood. Specifically, Pangle recites in keeping with an important aspect of the invention that the squeegee blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge 19 which facilitates removal of water from wet skin by the flexible and resilient blade. (Col. 2, lns. 42-46). Also, the central portion of the head 12 is preferably a recessed spoon shape 18 which aids in maneuvering the squeegee head over the contoured parts of the body. (Col. 2, lns. 38-41). As such, V-shaped scraper blade edges depending vertically from the head are expressly taught against.

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Furthermore, the proposed modification or combination of Pangle with Rosenblood would change the principle of operation of Pangle. Specifically, Pangle discloses a single flexible and resilient blade member positioned about the periphery of the head portion forming a substantially flat surface relative to the handle and head. It is an important aspect that the blade member is aligned about elongated head such that the sharp edges of the blade member project outwardly from the head at an acute angle. The smoothly rounded portions of the blade member adjacent to the head end and near the juncture with the handle portion provide further versatility in reaching different areas of the body while avoiding any pointed areas that could inadvertently injure the user. (Col. 3, Ins 5-6). Thus, a modification of Pangle with Rosenblood would change the principal of operation of Pangle, namely, requiring a reconfiguration of the head, a reorientation in the method of use, and the removal of an important aspect of the Pangle device.

Even if Rosenblood is included only to demonstrate the teaching of downwardly depending blades, the Examiner has failed to demonstrate how Pangle can be modified in view of Rosenblood to form a parallel pair of sharp V-shaped scraper blade edges depending substantially vertically from a lower surface of the elongated head without undue experimentation.

Specifically, the Pangle blade is formed from a flexible and resilient blade member held in a recess formed about the periphery of the head portion so as to form a substantially flat surface relative to the handle and head, where the squeegee blade projects outwardly from the head at an acute angle and presents a sharp and distinct edge. In contrast, the protrusion of Rosenblood is integrally formed at an edge of the central portion and not on a surface of the central portion.

As such, the blade structure of Pangle and the protrusion of Rosenblood are formed from completely different structures and methods, and the combination of Pangle and Rosenblood to form the claimed invention would require undue experimentation.

Accordingly, Applicants submit that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to provide the blade edge of Pangle depending downwardly as taught by Rosenblood.

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In contrast, Rosenblood discloses a tongue scraper having a central portion having a first and a second edge for scraping the tongue. The tongue scraper is made of a resilient material so that the central portion can be bent into an arc.

As such, the combination of Pangle and Rosenblood fails to disclose a core having an upper surface and a lower surface and being made of a first resilient material, said core defining an elongated longitudinally curved scraper blade having a scraper surface shaped to remove sweat and debris from an animal, a blade tip located at a free end portion of said scraper blade, and a handle extending from an opposite end of said scraper blade, said scraper blade comprising a longitudinally extending curved portion extending between said handle and said blade tip.

Furthermore, the combination of Pangle and Rosenblood fails to disclose a sheath made of a second resilient material, said sheath provided on and completely enveloping at least a portion of said core between said blade and said handle, and said sheath provided along a length of said scraper blade so as to define a parallel pair of sharp V-shaped scraper blade edges adapted to scrape sweat from an animal, said blade edges depending substantially vertically from said lower surface of said core.

In light of the foregoing, independent claim 1 is respectfully submitted to be patentable over Pangle in view of Rosenblood. As claims 4-7, 10-15, 19, and 20 depend from claim 1, these dependent claims necessarily include all the elements of their respective base claim. Accordingly, Applicants respectfully submit that dependent claims are allowable over Pangle in view of Rosenblood at least for the same reasons.

Conclusion

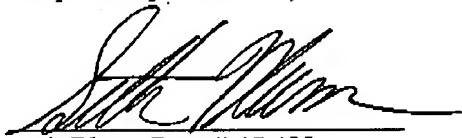
In light of the foregoing, this application is now in condition for allowance and early passage of this case to issue is respectfully requested. If any questions remain regarding this

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amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

A fee for a one month extension of time is believed due and submitted herewith. Please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 55-22890 (Docket No. Sunhpro-2-4244).

Respectfully submitted,



Seth Blum, Reg. # 45,489
2381 Executive Center Drive
Boca Raton, FL 33431
Tel: (561) 912-4395
Fax: (561) 912-4182